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EXAMINER

LY, NGHI H

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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08/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/661,967

Applicant(s)

FERIA ET AL.

Examiner

Nghy H. Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/11/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 04/30/07;05/01/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,895,217 (Chang et al). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 1, 14, 16, 18, 20, 25 and 26, Chang teaches a communications system comprising: a stratospheric platform having a payload controller and a phased array antenna having a plurality of elements for generating a first beam and a second beam (see Chang, claims 1-17), a gateway station in communication with the stratospheric platform, the gateway station receiving a first signal having the first beam having interference from the second beam therein and receiving a second signal having the second beam having interference from the first beam therein (see Chang, claims 1-17), the gateway station comprising a first subtracting block for subtracting the second signal from the first signal to obtain the first beam (see Chang, claims 1-17), the gateway station comprising a second subtracting block for subtracting the first signal from the second signal to obtain the second beam (see Chang, claims 1-17).

Regarding claims 2, 3, 4, 15, 17, 19, 21 and 24, Chang teaches the gateway station weights the second signal with a first weight prior to subtracting the second signal from the first signal (see Chang, claims 1-17).

Regarding claims 5, 6, 9 and 10, Chang teaches the payload controller comprises a demultiplexer for receiving control signals (see Chang, claims 1-17).

Regarding claim 7, Chang teaches the element control signals are coupled to an RF feed, and the RF feed is coupled to the plurality of elements of the phased array antenna (see Chang, claims 1-17).

Regarding claim 8, Chang teaches the gateway station comprises a beam generator for generating beam signals (see Chang, claims 1-17).

Regarding claim 11, Chang teaches gateway station is coupled to a terrestrial

network (see Chang, claims 1-17).

Regarding claim 12, Chang teaches terrestrial network comprises an Internet (see Chang, claims 1-17).

Regarding claim 13, Chang teaches the terrestrial network comprises a public service telephone network (see Chang, claims 1-17).

Regarding claim 22, Chang teaches the at least one signal is associated with a mobile user (see Chang, claims 1-17).

Regarding claim 23, Chang teaches the at least one other of the plurality of signals is associated with a mobile user (see Chang, claims 1-17).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 8, 11, 13, 14, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (US 5,966,371) in view of Dalal (US 6,819,943).

Regarding claims 1, 14, 18 and 20, Sherman teaches a communications system (see fig.1) comprising: stratospheric platform (see fig. 1, see satellite) having a payload controller (see column 5, lines 8-12 and column 6, lines 8-14, see "processors" or "processing") and a phased array antenna having a plurality of elements for generating a first beam and a second beam (see fig.1, see "12", "13" and "17" to "19", and fig.10, see "WV", "WX", "WY", "WZ" and "TO GATEWAY"), a gateway station in communication with the stratospheric platform (see fig.1, communication between ground station 11 and satellite), the gateway station receiving a first signal having the first beam having interference from the second beam therein and receiving a second signal having the second beam having interference from the first beam therein (see column 2, lines 7-12).

Sherman does not specifically disclose a gateway station comprising first subtracting block for subtracting the second signal from said first signal to obtain the first beam, a gateway station comprising a second subtracting block for subtracting the first signal from said second signal to obtain the second beam.

Dalal teaches a gateway station comprising first subtracting block for subtracting the second signal from said first signal to obtain the first beam (see fig.6 to fig.10, see column 12, lines 24-30, see "interference-cancelled" and it reads on applicant's

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"subtracting", and see column 15, lines 45-47), a gateway station comprising a second subtracting block for subtracting the first signal from said second signal to obtain the second beam (also see fig.6 to fig.10, see column 12, lines 24-30, see "interference-cancelled" and it reads on applicant's "subtracting", and see column 15, lines 45-47).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the teaching of Dalal into the system of Sherman so that receive and transmit interference cancelled can be done with or without migrating phase noise (see Dalal, Abstract).

Regarding Claim 8, Sherman further teaches the gateway station comprises a beam generator for generating beam signals (see fig.1 and fig.10).

Regarding claim 11, Sherman further teaches the gateway station is coupled to a terrestrial network (see fig.1).

Regarding claim 13, Sherman further teaches the terrestrial network comprises the public service telephone network (see fig.1).

7. Claims 2-4, 15-17, 19 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (US 5,966,371) in view of Dalal (US 6,819,943) and further in view of Baier et al (US 6,519,477).

Regarding claims 2, 3, 15 and 21-24, the combination of Sherman and Dalal teaches a communication system of claim 1. The combination of Sherman and Dalal does not specifically disclose weighting the second signal with a first weight prior to subtracting the second signal from the first signal.

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Baier teaches weighting the second signal with a first weight prior to subtracting the second signal from the first signal (see fig.5, the weights W1, W2, W3 and W4, prior to box "interference Cancellation").

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the teaching of Baier into the system of Sherman and Dalal in order to allow channel impulse response to be determined in an improved manner, such that the determination of the channel impulse responses are resistant to interference source (see Baier, column 1, line 66 to column 2, line 2).

Regarding claims 4, 17 and 19, the combination of Sherman and Dalal teaches a communication system of claims 1, 14 and 18. The combination of Sherman and Dalal does not specifically disclose the first weight is a function of user position files.

Baier teaches the first weight is a function of user position files (see column 8, lines 57-67 wherein proper weights are obtained adaptively, where adaptive variation as a function of user position file is inherently implied. In addition, Applicant's specification page 10, lines 12-18 merely recites "the user position files". However, it fails to further define what a "the user position files" is. Therefore, Baier does indeed teach Applicant's claimed limitation with a broadest reasonable interpretation).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the teaching of Baier into the system of the combination of Sherman and Dalal in order to allow channel impulse response to be determined in an improved manner, such that the determination of the channel impulse

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responses are resistant to interference source (see Baier, column 1, line 66 to column 2, line 2).

Regarding claim 16, the combination of Sherman, Dalal and Baier further teaches performing said step of subtracting said second signal from said first signal to obtain the first beam in a first subtracting block in the gateway station, and performing said step of subtracting said first signal from said second signal to obtain the second beam in a second subtracting block in the gateway station (see Dalal, fig.6 to fig.10, see column 12, lines 24-30, see "interference-cancelled" and it reads on applicant's "subtracting", and see column 15, lines 45-47).

Regarding claims 25 and 26, Sherman teaches communications system comprising: a stratospheric platform (fig. 1, communication platform 110) having a payload controller (see column 5, lines 8-12 and column 6, lines 8-14, see "processors" or "processing") and an antenna having a plurality of elements for generating a first beam and a second beam (see fig.1, see "12", "13" and "17" to "19", and fig.10, see "WV", "WX", "WY", "WZ" and "TO GATEWAY"), a gateway station in communication with said stratospheric platform (see fig.1, communication between ground station 11 and satellite), said gateway station receiving a first signal having the first beam having interference from the second beam therein and receiving a second signal having the second beam having interference from the first beam therein (see column 2, lines 7-12).

Sherman does not specifically disclose a gateway station comprising first subtracting block for subtracting the second signal from said first signal to obtain the

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first beam, a gateway station comprising a second subtracting block for subtracting the first signal from said second signal to obtain the second beam.

Dalal teaches a gateway station comprising first subtracting block for subtracting the second signal from said first signal to obtain the first beam (see fig.6 to fig.10, see column 12, lines 24-30, see "interference-cancelled" and it reads on applicant's "subtracting", and see column 15, lines 45-47), a gateway station comprising a second subtracting block for subtracting the first signal from said second signal to obtain the second beam (also see fig.6 to fig.10, see column 12, lines 24-30, see "interference-cancelled" and it reads on applicant's "subtracting", and see column 15, lines 45-47).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the teaching of Dalal into the system of Sherman so that receive and transmit interference cancelled can be done with or without migrating phase noise (see Dalal, Abstract).

The combination of Sherman and Dalal does not specifically disclose the gateway station weighting the second signal with a first weight to form a weighted second signal and wherein said first weight is a function of user position files.

Baire teaches the gateway station weighting the second signal with a first weight to form a weighted second signal (see fig.5, the weights W1, W2, W3 and W4, prior to box "interference Cancellation") and wherein said first weight is a function of user position files (see column 8, lines 57-67 wherein proper weights are obtained adaptively, where adaptive variation as a function of user position file is inherently implied. In addition, Applicant's specification page 10, lines 12-18 merely recites "the

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user position files". However, it fails to further define what a "the user position files" is. Therefore, Baier does indeed teach Applicant's claimed limitation with a broadest reasonable interpretation).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the teaching of Baier into the system of Sherman and Dalal in order to allow channel impulse response to be determined in an improved manner, such that the determination of the channel impulse responses are resistant to interference source (see Baier, column 1, line 66 to column 2, line 2).

8. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibanez-Meier et al (US 6,151,308) in view of Kavehrad (US 4,577,330) and further in view of Rouffer et al (US 5,410,731).

Regarding claim 5, the combination of the combination of Sherman and Dalal teaches claim 1. The combination of the combination of Sherman and Dalal does not specifically disclose the payload controller comprises a demultiplexer for receiving control signals.

Rouffer teaches the payload controller comprises a demultiplexer for receiving control signals (fig.3, see the connection between demultiplexer 8 and central control 9, and see column 3, lines 65-68).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the teaching of Rouffer into the system of Sherman and Dalal in order to provide a simpler, cheaper way of solving the problem

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that is based on using a system which can be modified as a function of market requirements (see Rouffer, column 2, lines 3-6).

Regarding claim 6, the combination of Sherman and Dalal teaches claim 1. The combination of Sherman and Dalal does not specifically disclose the demultiplexer generates a plurality of element control signals.

Rouffer teaches the demultiplexer generates a plurality of element control signals (fig.3, see the connection between demultiplexer 8 and central control 9, and see column 3, lines 65-68).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the teaching of Rouffer into the system of Sherman and Dalal in order to provide a simpler, cheaper way of solving the problem that is based on using a system which can be modified as a function of market requirements (see Rouffer, column 2, lines 3-6).

Regarding claim 7, Sherman further teaches the element control signals are coupled to an RF feed, and the RF feed is coupled to the plurality of elements of the phased array antenna (see fig.10 and fig.11).

9. Claims 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (US 5,966,371) in view of Dalal (US 6,819,943) and further in view of Official notice.

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Regarding claim 9, the combination of the combination of Sherman and Dalal teaches claim 1. The combination of the combination of Sherman and Dalal does not specifically disclose the gateway station further comprises a multiplexes/demultiplexer. However, the examiner takes Official notice that such feature as recited is very well known in the art.

Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention was made to modify the above teaching of Sherman and Dalal for providing a method as claimed, for multiplexing/demultiplexing the signals.

Regarding claim 10, the combination of the combination of Sherman and Dalal teaches claim 1. The combination of the combination of Sherman and Dalal does not specifically disclose the multiplexes/demultiplexer comprises a code division multiplexes/demultiplexer. However, the examiner takes Official notice that such feature as recited is very well known in the art.

Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention was made to modify the above teaching of Sherman and Dalal for providing a method as claimed, for multiplexing/demultiplexing the signals.

Regarding claim 12, the combination of the combination of Sherman and Dalal teaches claim 1. The combination of the combination of Sherman and Dalal does not specifically disclose the terrestrial network comprises the Internet. However, the examiner takes Official notice that such feature as recited is very well known in the art.

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Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention was made to modify the above teaching of Sherman and Dalal for providing a method as claimed, for the terrestrial network comprises the Internet.

Response to Arguments

10. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nghi H. Ly

A handwritten signature in black ink, appearing to be 'Nghi H. Ly', written in a cursive style.